

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**LABORERS' PENSION FUND and)
LABORERS' WELFARE FUND OF THE)
HEALTH AND WELFARE DEPARTMENT)
OF THE CONSTRUCTION AND GENERAL)
LABORERS' DISTRICT COUNCIL OF)
CHICAGO AND VICINITY, JAMES S.)
JORGENSEN, Administrator of the Funds,)**

Plaintiffs,

V.

Case No. 07 C 7126

**T.A. PAROCHELLI CO.,
and THOMAS PAROCHELLI.**

Judge Gettleman

Defendants.

**PLAINTIFFS' MOTION FOR ADDITIONAL TIME
TO SERVE DEFENDANT UNDER RULE 4(m)**

Plaintiffs, by their attorneys, request this court to grant an extension of time to serve defendant Thomas Parochelli.¹ In support of this motion Plaintiffs state as follows:

1. Plaintiffs brought this cause under the Employee Retirement Income Security Act of 1974, (“ERISA”), as amended, 29 U.S.C. §1001 et seq., and the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §185(a), for failure to pay employee benefits contributions, failure to pay union dues and default on a note.

2. Plaintiffs have initiated process on defendant Thomas Parochelli without success. Plaintiffs have attempted to serve Mr. Parochelli at the addresses on file with the Secretary of State for T.A Parochelli Company's registered agent (910 South I-Oka, Mount Prospect, Illinois 60056)

¹ Plaintiffs served the corporate defendant in this case, T.A. Parochelli Co., on March 4, 2008, by filing the summons and complaint with the Secretary of State, which was permitted because the corporate defendant was dissolved on June 1, 2006. See, Affidavit of Compliance [Docket No. 9]; 805 ILCS 5/5.25(b)(3) (within five years of the dissolution, permitting service through the Secretary of State on a dissolved corporation).

and at the address on file for T.A. Parochelli Company's president, who is Mr. Parochelli (1645 West Berwyn, Chicago, Illinois 60640). Mr. Parochelli could not be found at either address. Plaintiffs have also unsuccessfully attempted service at 5315 North Clark Street, Chicago, Illinois 60640, an address at which they had previously corresponded with Mr. Parochelli. *See*, attached affidavits.

3. Plaintiffs have been diligent in their attempt to locate Mr. Parochelli. Plaintiffs believe that they will be able to locate and serve Mr. Parochelli shortly, now that construction work has begun again in the spring of this year.

4. Rule 4(m) of the Federal Rules of Civil Procedure provides that an action may be dismissed if not served within a 120 days of the filing of the complaint. Plaintiffs request an additional 90 days to serve summons and complaint to Mr. Parochelli. The complaint was filed December 19, 2007 and the 120 day period will expire on April 17, 2008. Relief from Rule 4(m) is justified to avoid the unnecessary formality of refiling the case.

WHEREFORE, Plaintiffs request an additional 90 days to serve defendant Thomas Parochelli.

Respectfully submitted,

/s/ Josiah A. Groff
One of Plaintiffs' Attorneys

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